



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,965	12/21/2000	John Robert Davies	PT-1673004	7407

23607 7590 02/22/2005

IVOR M. HUGHES, BARRISTER & SOLICITOR,  
PATENT & TRADEMARK AGENTS  
175 COMMERCE VALLEY DRIVE WEST  
SUITE 200  
THORNHILL, ON L3T 7P6  
CANADA

EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/740,965

Applicant(s)

DAVIES ET AL.

Examiner

Jerry Redman

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 10 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 10, and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3634

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of Warnick. Kramer discloses a closure assembly mounted within an opening comprising a jamb (120) having an interior and a jamb pocket (124), a retractable screen (104, Webster's New world College Dictionary, 3<sup>rd</sup> edition, defines screen as "anything that functions to shield, protect, or conceal like a curtain") contained within the jamb pocket (124), a latch (118) having a handle, a latch receptacle (116), and top and bottom tracks (106 and 108) which guide the screen between open and closed positions. With respect to claims 1, 2, and 10, Kramer fails to disclose a closure assembly to be mounted within a window opening and the screen being a mesh screen which is spring biased and with respect to claim 16, Kramer fails to disclose a mesh screen being spring biased. Warnick discloses a mesh screen which is a spring biased (it's inherent that the screen is spring biased since the screen is retractable within a header that has no other openings other than the slots that the screen and shade retract therefrom) retractable closure assembly mounted within a window. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the closure assembly of Kramer to be a spring biased mesh screen mounted within a window opening as taught by Warnick since openings within a house are art equivalent and would have been obvious to mount movable mesh screen within

Art Unit: 3634


any opening of a house thereby preventing bugs and insects from entering the house and still provide ventilation through the opening and would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the screen of Kramer to be a mesh screen which is spring biased as taught by Warnick since a spring biased mesh screen allows the mesh screen to be automatically wound back onto itself in a stored position.

The applicant's arguments have been considered but are not deemed to be persuasive. It appears that the applicant's arguments are more limiting than the claims. The applicant argues that the sheet of Kramer is self-coiling and there is no need for a vertical post to wind about. Are these limitations in the claims? The applicant further argues that it would not be obvious to one of ordinary skill in the art to provide the screen of Kramer to be a mesh screen but nothing in Kramer teaches away from this concept and would have been obvious to one of ordinary skill in the art at the time of the invention to provide the screen of Kramer to be formed of mesh as taught by Warnick for the reasons above. Furthermore, the applicant argues the thickness of a mesh screen which is more limiting than that of the claims. The applicant further argues that the assembly of Kramer is not in the jamb but Kramer specifically calls element 168 a storage jamb (column 6, lines 10-11). Still furthermore, the applicant argues the process of manufacturing and not the apparatus per se which carries little patentable weight.

Application/Control Number: 09/740,965  
Art Unit: 3634

Page 4

Any inquiry concerning this communication should be directed to Jerry Redman  
at telephone number 703-308-2120.



Jerry Redman  
Primary Examiner